

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

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Investigation by the Department of Telecommunications and )  
Energy, on its own motion, as to the propriety of the )  
rates and charges set forth in M.D.T.E. No. 17, filed with ) D.T.E. 98-57-  
the Department on May 5, 2000 and June 14, 2000 to become ) Phase III  
effective October 2, 2000 by New England Telephone and )  
Telegraph Company d/b/a Bell Atlantic - Massachusetts )

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May 18, 2001

HEARING OFFICER RULING ON VERIZON MASSACHUSETTS'  
MOTION TO DEFER COST ISSUES

INTRODUCTION

On May 10, 2001, Verizon Massachusetts ("Verizon" or "VZ-MA") filed with the Department of Telecommunications and Energy ("Department") a Motion to Defer Cost Issues and a Motion to Stay the Procedural Schedule. On May 11, 2001, by hearing officer memorandum, the Department granted Verizon's Motion to Stay the Procedural Schedule to the extent necessary to obtain comments from the parties on Verizon's Motion to Defer and to provide direction to the parties on the issues to be addressed in pre-filed testimony. In its Motion to Defer, Verizon seeks to defer the investigation of two outstanding cost issues originally raised in this proceeding to a separate Department proceeding, D.T.E. 01-20. (1) The two cost issues which remain in D.T.E. 98-57-Phase III are (1) establishing final rates for conditioning of loops that meet Carrier Serving Area ("CSA") standards; (2) and (2) establishing final rates for line sharing collocation augment application and engineering services. Interim rates, subject to true-up, are in place for both CSA loop conditioning and line sharing collocation augments. See Phase III-A Reconsideration Order at 25; Phase III-B Clarification Order at 2. On May 15, 2001, Covad Communications Company ("Covad") filed an Opposition to Verizon's Motion to Defer ("Covad Opposition"). On May 17, 2001, Verizon filed a response to Covad's Opposition ("VZ-MA Response"). No other party responded to Verizon's motion.

## II. POSITIONS OF THE PARTIES

### A. Verizon

In its Motion to Defer, Verizon asks the Department to defer the two remaining cost issues in D.T.E. 98-57-Phase III to the Department's investigation in D.T.E. 01-20 (VZ-MA Motion to Defer at 1-2). Verizon states that the TELRIC studies filed in D.T.E. 01-20 include the two outstanding cost issues in D.T.E. 98-57-Phase III, and recommends that the Department review these costs in D.T.E. 01-20, along with all the other TELRIC-based costs and rates (*id.* at 2). Verizon states that the costs for loop conditioning and line sharing collocation augments Verizon filed in D.T.E. 01-20, are generally lower than the interim rates filed in D.T.E. 98-57-Phase III, and that Verizon is willing to apply those lower rates, subject to true-up, until final costs and rates are set in D.T.E. 01-20 (*id.* at 2-3). Verizon states that so doing will ensure that parties receive the benefit of lower rates while the Department's investigation in D.T.E. 01-20 is ongoing, and is consistent with the Department's intent in D.T.E. 98-57-Phase III (*id.* at 3).

### Covad

In its Opposition, Covad argues that the two outstanding cost issues in D.T.E. 98-57-Phase III should not be deferred to D.T.E. 01-20 (Covad Opposition at 1). Covad asserts that litigating final rates for conditioning CSA-compliant loops in D.T.E. 01-20 would deprive the parties of the extensive record on loop conditioning costs developed in D.T.E. 98-57-Phase III (*id.* at 1-2). Developing a similar record in D.T.E. 01-20, Covad argues, would entail unnecessary time and expense (*id.* at 2). Covad also notes that several parties in D.T.E. 01-20 have recently moved to strike Verizon's loop conditioning testimony from that proceeding, and, if granted, consistency requires that Verizon's motion in the instant docket be denied (*id.* at 2). In addition, Covad asserts that consideration of collocation augment rates originally raised in D.T.E. 98-57-Phase III should not be deferred to D.T.E. 01-20 because collocation is not within the official scope of D.T.E. 01-20 (*id.*). Covad notes that several parties in D.T.E. 01-20 have also moved to strike or defer consideration of all collocation issues in D.T.E. 01-20, therefore, Covad asserts that Verizon's contention that D.T.E. 01-20 is the proper forum to address line sharing collocation augment issues is presumptuous (*id.* at 2-3).

## III. ANALYSIS AND FINDINGS

Whether the examination of collocation and line sharing costs and rates in general are properly within the scope of the Department's investigation in D.T.E. 01-20 is clearly a question for the hearing officers in that proceeding to address. On May 18, 2001, by hearing officer ruling, it was determined that review of both collocation and line sharing costs and rates are within the scope of the Department's comprehensive review of UNE rates. D.T.E. 01-20, Hearing Officer Ruling at 6-8 (May 18, 2001). Therefore, the issue before us is whether the two discrete line sharing cost issues that remain outstanding in D.T.E. 98-57-Phase III should be considered separately from the other TELRIC-based costs and rates in D.T.E. 01-20. For the reasons stated below, we conclude that there is no advantage in doing so.

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militate in favor of reviewing related issues in one docket rather than two. As review of collocation and line sharing costs and rates are properly within the scope of D.T.E. 01-20, review of CSA-compliant loop conditioning rates and line sharing collocation augment rates are likewise within the purview of that proceeding and should be included therein. In addition, Covad's assertion that the extensive record on loop conditioning costs established in D.T.E. 98-57-Phase III would be unavailable to the parties in D.T.E. 01-20 is incorrect. Pursuant to 220 C.M.R. § 1.10(3), any matter contained within the record of a Department proceeding may be incorporated by reference in a separate Department proceeding by offer of a party or by the Department. Therefore, parties would have the opportunity to include as evidence in D.T.E. 01-20 portions of the record on loop conditioning costs, or any other cost issue addressed in D.T.E. 98-57-Phase III, without the need to recreate the testimony and findings on those issues developed in D.T.E. 98-57-Phase III. Further, because the costs for CSA-compliant loop conditioning and line sharing collocation augments contained in Verizon's May 8, 2001 filing in D.T.E. 01-20 are lower than the interim rates established in D.T.E. 98-57-Phase III, CLECs will benefit from the lower rates for those services in the interim until final costs and rates are established in D.T.E. 01-20.

IV. RULING

Verizon's Motion to Defer Cost Issues is granted. Review of costs and final rates for conditioning of CSA-compliant loops and line sharing collocation augments will take place in D.T.E. 01-20. Effective immediately, in the interim until final costs and rates are determined in D.T.E. 01-20, Verizon will apply, subject to true-up, the lower rates for the above services as contained in Verizon's May 8, 2001 filing in D.T.E. 01-20.

Under the provisions of 220 C.M.R. § 1.06(6)(d)(3), any party may appeal this Ruling to the Commission by filing a written appeal with supporting documentation within five (5) days of this Ruling. Any appeal must include a copy of this Ruling.

\_\_\_\_\_/s/\_\_\_\_\_/s/\_\_\_\_\_

Paul a Foley, Hearing Officer Jesse Reyes, Hearing Officer

Date: May 18, 2001

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1. In D.T.E. 01-20, the Department is conducting a comprehensive investigation into, inter alia, new unbundled network element ("UNE") rates based on Total Element Long-Run Incremental Costs ("TELRIC"). Investigation by the Department of Telecommunications and Energy on its own Motion into the Appropriate Pricing, based upon Total Element Long-Run Incremental Costs, for Unbundled Network Elements, and the Appropriate Avoided Cost Discount for Verizon New England, Inc. d/b/a Verizon Massachusetts' Resale Services in the Commonwealth of Massachusetts, D.T.E. 01-20, Vote and Order to Open Investigation at 5 (January 12, 2001).
2. The CSA standard requires a deployment of no more than 2,500 feet in total bridged tap on each loop and no single bridged tap longer than 2,000 feet. Phase III-A Reconsideration Order, D.T.E. 98-57-Phase III-A at 30 (January 8, 2001) (further citations omitted) ("Phase III-A Reconsideration Order"). Verizon is required to remove bridged tap in excess of the CSA standard at no charge to requesting CLECs. Phase III-B Clarification Order, D.T.E. 98-57-Phase III-B at 2 (February 21, 2001) ("Phase III-B Clarification Order").